Order Filed on January 31, 2023

**U.S. Bankruptcy Court** 

**District of New Jersey** 

# UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

#### TRIF & MODUGNO, LLC

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Chapter 11 (Subchapter V)

Case No. 22-16159-CMG

Judge: Hon. Christine M. Gravelle

In re:

ASSUNCAO BROS., INC.,

Debtor.

ORDER (I) ENFORCING SALE ORDER AGAINST EXTECH BUILDING MATERIALS, INC. d/b/a LIBERTY BUILDING PRODUCTS ("LIBERTY"), (II) DETERMINING THAT LIBERTY'S CLAIM AGAINST CONTI ENTERPRISES, INC.'S SURETY VIOLATES THE SALE ORDER, (III) DIRECTING LIBERTY TO WITHDRAW THE CLAIM AGAINST THE SURETY, AND (IV) GRANTING RELATED RELIEF

The relief set forth on the following pages, numbered two (2) though three (3) is hereby

ORDERED.

DATE:

DATED: January 31, 2023

Honorable Christiné M. Gravelle United States Bankruptcy Judge

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further

DEBTOR: Assuncao Brothers, Inc.

CASE NO: 22-16159-CMG

CAPTION: Order (I) Enforcing Sale Order Against Extech Building Materials,

Inc. d/b/a Liberty Building Products ("Liberty"), (II) Determining that Liberty's Claim Against Conti Enterprises, Inc.'s Surety Violates the Sale Order, (III) Directing Liberty to Withdraw the Claim against

the Surety, and (IV) Granting Related Relief

THIS MATTER having been brought before the Court upon the motion (the "Motion") of Vollers Excavating and Construction, Inc. ("Vollers"), the purchaser of substantially all the assets of Assuncao Brothers, Inc. ("ABI" or the "Debtor"), by and through Vollers' counsel, for entry of an order (i) enforcing the Sale Order against Extech Building Materials, Inc. d/b/a Liberty Building Products ("Liberty"), an ABI supplier on a Subcontract between ABI and Conti Enterprises, Inc. ("Conti") (ii) determining that Liberty's claim against Conti's surety violates the Sale Order, (iii) requiring Liberty to withdraw it claim against Conti's surety, and (iv) granting related relief; and the Court having jurisdiction over the Debtor's Subchapter V Case and the Motion under 28 U.S.C. §§ 1334(b) and 157, and the Standing Order of Reference to the Bankruptcy Court Under Title 11 of the United States District Court for the District of New Jersey, dated September 18, 2012 (Simandle, C.J.); and the Court having found and determined that the relief requested in the Motion and provided for herein is proper, lawful, necessary and appropriate; and after consideration of any opposition to the Motion; and for good cause shown, it is hereby

**ORDERED** that the Motion is granted; and it is further

**ORDERED** that the Sale Order is enforceable and binding against Liberty; and it is further

**ORDERED** that Liberty's claim against Conti's surety violated the Sale Order; and it is

**ORDERED** that, within <u>10</u> days of the date hereof, Liberty shall withdraw its claim against Conti's surety; and it is further

<sup>1</sup> Capitalized terms not otherwise defined shall have the same meaning as set forth in the Motion.

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DEBTOR: Assuncao Brothers, Inc.

CASE NO: 22-16159-CMG

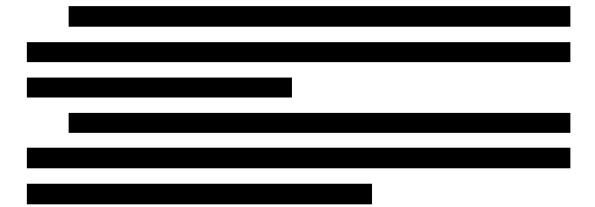
CAPTION: Order (I) Enforcing Sale Order Against Extech Building Materials,

Inc. d/b/a Liberty Building Products ("Liberty"), (II) Determining that Liberty's Claim Against Conti Enterprises, Inc.'s Surety Violates the Sale Order, (III) Directing Liberty to Withdraw the Claim against

the Surety, and (IV) Granting Related Relief

**ORDERED** that, if Liberty does not withdraw its claim against Conti's surety as set forth herein, Conti's surety shall be authorized to rely on this Order for the purpose of denying the claim in its entirety; and it is further

ORDERED that Extech shall pay \$1,000 to Triff & Mougno, LLC to offset attorney fees incurred by bringing the motion to enforce the sale order.



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United States Bankruptcy Court District of New Jersey

In re: Case No. 22-16159-CMG

Assuncao Bros., Inc. Chapter 11

Debtor

CERTIFICATE OF NOTICE

District/off: 0312-3 User: admin Page 1 of 3
Date Rcvd: Jan 31, 2023 Form ID: pdf903 Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol Definition

Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS

regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Feb 02, 2023:

Recipi ID Recipient Name and Address

db + Assuncao Bros., Inc., 29 Wood Avenue, Edison, NJ 08820-3503

TOTAL: 1

 $Notice \ by \ electronic \ transmission \ was \ sent \ to \ the \ following \ persons/entities \ by \ the \ Bankruptcy \ Noticing \ Center.$ 

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

## **BYPASSED RECIPIENTS**

The following addresses were not sent this bankruptcy notice due to an undeliverable address, \*duplicate of an address listed above, \*P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

### NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Feb 02, 2023 Signature: /s/Gustava Winters

### CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on January 31, 2023 at the address(es) listed below:

Name Email Address

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